

STATE OF NEW JERSEY  
 Department of Law and Public Safety  
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
 1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1725

April 12, 1967

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April 12, 1967

1. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) - FALSE STATEMENT IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 80 DAYS, LESS 5 FOR PLEA.

CANCELLATION PROCEEDINGS - OFFICER AND STOCKHOLDER OF LICENSEE CORPORATION CONVICTED OF CRIME INVOLVING MORAL TURPITUDE.

In the Matter of Disciplinary )  
and Cancellation Proceedings )  
against )

J. & J. Paszkewicz & Son, Inc. )  
t/a Friendly Inn )  
331 Smith Street )  
Perth Amboy, New Jersey )

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Consumption )  
License C-21, issued by the Board )  
of Commissioners of the City of )  
Perth Amboy )

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Joseph A. Grzankowski, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on October 28, 1966, it permitted the acceptance of horse race bets on the licensed premises, in violation of Rule 7 of State Regulation No. 20, and (2) in its current application for license, falsely denied that Edward Paszkewicz, an officer, director and ten per cent. stockholder of the licensee corporation, had been convicted of crime, viz., willful failure to pay special occupational (wagering) tax in violation of federal law, in violation of R.S. 33:1-25.

In addition to the charges, the licensee was ordered to show cause why its license should not be cancelled and declared null and void for the reason that its issuance was improvident, in violation of R.S. 33:1-25, by reason of Paszkewicz's conviction of a crime involving moral turpitude.

During the pendency of these proceedings, Paszkewicz divested himself of his stock interest and resigned as an officer and director of the licensee corporation.

Conviction of the crime of willful failure to pay the federal special occupational wagering tax involves moral turpitude. Re Elig. No. 751, Bulletin 1710, Item 3.

Absent prior record, the license will be suspended on the first charge for sixty days (Re Sokol, Bulletin 1707, Item 3) and on the second charge for twenty days (Re Greenwell, Bulletin 1680, Item 6), or a total of eighty days, with remission of five days for the plea entered, leaving a net suspension of seventy-five days.

In view of the correction of the unlawful licensing situation, the order to show cause why the license should not be cancelled and declared null and void is discharged. Cf. Re Greenwell, supra; Re Saidik, Bulletin 1589, Item 6.

Accordingly, it is, on this 9th day of February, 1967,

ORDERED that Plenary Retail Consumption License C-21, issued by the Board of Commissioners of the City of Perth Amboy to J. & J. Paszkewicz & Son, Inc., t/a Friendly Inn, for premises 331 Smith Street, Perth Amboy, be and the same is hereby suspended for seventy-five (75) days, commencing at 2:00 a.m. Thursday, February 16, 1967, and terminating at 2:00 a.m. Tuesday, May 2, 1967,

JOSEPH P. LORDI,  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ORDER PERMITTING RETRACTION OF UN-AUTHORIZED CONFESSIVE PLEA TO ONE CHARGE, REFIXING SUSPENSION ON OTHER CHARGE AND RESCHEDULING HEARING ON CONTESTED CHARGE.

In the Matter of Disciplinary )  
and Cancellation Proceedings )  
against )

J. & J. Paszkewicz & Son, Inc. )  
t/a Friendly Inn )  
331 Smith Street )  
Perth Amboy, New Jersey )

AMENDED ORDER

Holder of Plenary Retail Consump- )  
tion License C-21, issued by the )  
Board of Commissioners of the City )  
of Perth Amboy )

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Joseph A. Grzankowski, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

On February 9, 1967, I entered an order herein suspending the license for seventy-five days effective February 16th upon recitation of the licensee's plea of non vult to charges of (1) permitting acceptance of horse race bets on the licensed premises and (2) false statement in the license application. Re J. & J. Paszkewicz & Son, Inc., Bulletin 1725, Item 1.

Licensee's attorney has now advised me that the confes- sive plea to the first charge was entered in error resulting from misunderstanding between him and the licensee. On the basis thereof, request has been made for permission to withdraw the plea to the first charge and thereafter to have the matter proceed to hearing on that charge.

In view of the circumstances, I shall grant the request and terminate the currently effective suspension of license fifteen days after its commencement, representing the penalty of twenty days imposed on the second charge, with remission of five days for the plea entered. Further, hearing on the first charge will be held on a date to be fixed.

Accordingly, it is, on this 21st day of February, 1967,



Pisane visited the tavern for the first time on June 7, 1966, at approximately 12:45 p.m., and sat at the bar at an area serviced by a bartender identified as Frank Argenio. The patronage consisted of approximately twenty people. Relative to a conversation he had with Argenio at approximately 12:55 p.m., he testified as follows:

"I had overheard a conversation about a horse running in Linden -- it was a Linden-owned horse. I asked him [Argenio] about this horse. He said it was running today and would I like to put something on it. I said, 'Yes, I would like to bet \$5 on it to win.' I took \$5 out, placed it on the bar, and he put it in his pocket and said he would take care of it.... The horse was Needle Him."

He next observed a person to his right "pass a folded piece of paper that appeared to be money" to Argenio and mention "daily double." It was his opinion that the expression "daily double" is a bet on horses. He departed shortly thereafter.

On June 8, 1966 Pisane entered the tavern at approximately 1:10 or 1:15 p.m. Argenio and two other men were tending bar. Concerning a horse bet transaction he had with Argenio, the witness testified as follows:

"Q While you were in the tavern was there any occurrence between you and Frank Argenio?

A Yes. I handed him a slip of paper with a horse bet on it.

Q Who prepared that slip?

A I did.

Q Do you have that slip now?

A No, sir.

Q What did you write on the slip?

A I wrote the slip for a parlay bet, and written on the slip of paper was '7 Monmouth, Our Michael, 9 Aque' -- abbreviated -- 'Get Crakin, two dollar win and two dollar place parlay for Angelo.' I used the name 'Angelo.'

Q Did you see what Mr. Argenio did with that slip?

A There was four dollars enclosed. He looked at it, read it, and placed it in his pocket. I said, 'Can you take care of this?' He said yes, he would."

On June 17, 1966 ABC Agent D, Howard Frankel and John T. Lynch of the Union County Prosecutor's office cooperated with Pisane in conducting the investigation of the licensed premises.

Pisane was alone when he entered the licensed premises at approximately 12:30 p.m. He had in his possession a horse bet slip that he had made up in the presence of Frankel and ABC Agent D and a marked \$5 bill. Tending bar were Frank Argenio and two other bartenders. He described a transaction he had with Argenio thusly:

"He [Argenio] then took an Armstrong scratch sheet out of his inner shirt, he had no tie on, he reached in and placed it on the bar, and gave it to me. He said, 'Look this over.' I informed him I had one written down. I took this out of my pocket and handed it across to him."

Pisane handed the marked \$5 bill and the horse bet slip to Argenio simultaneously. Thereafter Pisane observed ABC Agent D enter the tavern and "sit across from me" and Frankel and

Lynch enter and "sit to my left." He then exited from the licensed premises. He alleged that the incident occurred at 12:45 p.m.

On cross examination Pisane admitted that he witnessed no betting by others except the time he observed a man pass folded-up money to the bartender.

Howard Frankel (a detective employed by the County of Union) testified that he participated in the investigation of the charges brought against the licensee with ABC Agent D and Pisane and Lynch of the Union County Prosecutor's office. Prior to entering the barroom with Lynch on June 17, 1966 (shortly after 1 p.m.) he was cognizant of the fact that Pisane had in his possession a marked \$5 bill and a pre-recorded horse bet slip. He saw three men tending bar. One of the men was identified as Frank Argenio. After Pisane departed from the barroom he identified himself to Argenio and, in collaboration with Lynch and Agent D, executed the search warrant which Lynch had in his possession. The horse bet slip that had been prepared by Pisane in the presence of the other law enforcement officers and the marked \$5 bill given by Pisane to Argenio were produced from one of Argenio's pockets. Three horse bet slips were produced from Argenio's left front trouser pocket. Additionally, the bartender removed three horse bet slips from his left rear trouser pocket.

The officers conducted a search of the kitchen located in the rear of the premises. The witness testified that he saw two women in the kitchen, one of whom was identified as Mrs. Anna Venckus (a shareholder and officer of the licensee corporation). Frankel found Irish Sweepstakes tickets (described by the witness as lottery tickets) in a cigar box on the second shelf. When shown the tickets Mrs. Venckus exclaimed, "Everybody has Irish sweepstakes tickets." On the third shelf the detective found a horse bet slip. Upon finding the slip Mrs. Venckus remarked, "You might as well have this with other items in it" and handed Frankel a bag which was on the second shelf. The detective testified that the bag contained numerous horse bet slips. Finally Frankel testified that, when ABC Agent D questioned Mrs. Venckus as to whether she knew Argenio was accepting bets, Mrs. Venckus responded to the effect that "I told him to stop."

On cross examination Frankel stated that at no time did Mrs. Venckus admit that the horse bet slips were hers. However, she did admit that the Irish sweepstakes tickets were hers and commented "Everybody has them."

ABC Agent D testified that he participated in the investigation of the allegations contained in the charges in the instant matter, particularly referring to the date of June 17, 1966. He was in the company of Detective Frankel most of the time during the progress of the investigation conducted on said date and it was stipulated that his testimony would be substantially the same as the testimony given by Frankel.

John T. Lynch testified that he was employed as an investigator by the Prosecutor's office of Union County and he participated with Detective Frankel in the search of Argenio. It was stipulated that his testimony relating to the search of Argenio would be the same as the testimony given by Detective Frankel.

Detective Frankel, upon being recalled for additional cross examination, testified that at no time did he observe Mrs.

Venckus accepting a bet nor did his examination of the bet slips and other betting paraphernalia enable him to determine that she had taken any bets.

On redirect examination the questioning of the Detective revealed the following:

"Q Detective, after your examination or inspection of the rear room when you found, as you testified, a box on the second shelf with some tickets in it and also some horse race bets on the third shelf was there any occurrence between Mrs. Venckus and yourself which let you to an opinion as to whether she knew there was any other matter on the premises?

A Yes, sir.

Q What was that?

A She handed me a bag containing horse bets and a scratch sheet and said, 'You might as well take these, too.'

Q Did you see where she obtained those?

A Yes, sir. On the same shelf as the cigar box I found."

At the conclusion of the Division's case the licensee presented no testimony. The attorney for the licensee refused to permit Mrs. Venckus to testify, arguing that, due to the pendency of a criminal proceeding, her appearance on the stand might be prejudicial to her interests in the criminal trial. Secondly, the attorney argued that:

"On the dates set forth in the first charge, the licensee did not allow, permit or suffer gambling to be conducted upon the licensed premises. The evidence is clear that no one saw her accept any bets and further indicates that she had not taken any bets at any time. Assuming for the sake of argument that there was gambling being conducted on the premises by some one other than the licensee, viz: an employee of the licensee, the evidence is also clear that such an employee was not authorized to do so by the licensee and did it surreptitiously and without the presence of knowledge of the licensee."

Lastly, the attorney argued that, in so far as the second charge is concerned, the Irish Hospital Sweepstakes tickets were the personal property of Mrs. Venckus and were not for sale or distribution.

In adjudicating this matter I observe primarily that, in evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App.Div. 1960); Howard Tavern, Inc. v. Division of Alcoholic Beverage Control, (App.Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

In appraising the factual picture presented in this proceeding, the credibility of witnesses must be weighed. Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div. 1961).

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

I have had an opportunity to observe the demeanor of the witnesses as they testified and have made a careful analysis and evaluation of their testimony.

I am persuaded that the testimony of Investigator Pisane, presented in a direct and detailed manner, was factual, credible and truly depicted the gambling activities which he described. His testimony was buttressed by the finding of the numerous horse bet slips upon the licensed premises by the other law enforcement officers who participated in the investigation on June 17, 1966.

It is apparent that the first argument presented by the attorney for the licensee is clearly without merit. In presenting his defense he is free to call or not to call any witness he should choose. Furthermore, the instant proceeding is not against any individual person whom he may call as a witness; it is solely a proceeding against a corporate licensee.

In answer to the second argument, again it appears that the attorney incorrectly presumes that the instant proceeding is against an individual, namely, Mrs. Anna Venckus. I reiterate, the proceeding is against a corporate licensee. Furthermore, it has been long established that a licensee cannot escape the consequences of the occurrence of incidents, such as hereinabove related, on the licensed premises. A licensee may not avoid his responsibility for conduct occurring on his premises by merely closing his eyes and ears. On the contrary, licensees or their agents or employees must use their eyes and ears, and use them effectively, to prevent the improper use of their premises. Bilowith v. Passaic, Bulletin 527, Item 3; Re Ehrlich, Bulletin 1441, Item 5; Re Club Tequila, Inc., Bulletin 1557, Item 1.

An additional basic principle is worthy of emphasis. In disciplinary proceedings a licensee is fully accountable for all violations committed or permitted by his servants, agents or employees. Scienter on the part of the employer is not a prerequisite to a finding of guilt where an employee participates in the misdeeds. Rule 33 of State Regulation No. 20. Cf. In re Schneider, 12 N.J. Super. 449 (App.Div. 1951).

Additionally, the testimony of the law enforcement officers clearly indicates that Mrs. Anna Venckus (a stockholder of the corporate licensee, who apparently was actively engaged in the business conducted by the licensee) was well aware of the gambling activities indulged in by one of the employees, to wit, Frank Argenio. The evidence established that Mrs. Venckus produced a bag containing horse race betting slips.

The final argument propounded by the licensee is clearly without merit.

Rule 6 of State Regulation No. 20 states in its pertinent part as follows:

"No licensee shall allow, permit or suffer in or upon the licensed premises any lottery to be conducted, or any ticket or participation right in any lottery to be sold or offered for sale; nor shall any licensee possess, have custody of, or allow, permit or suffer any such ticket or participation right, in or upon the licensed premises...."

To entertain the construction urged by the licensee would mean that, once a sale was completed and the Division had no evidence of the sale, the possession by the licensee of that ticket would constitute no violation. In this connection, it is interesting to note that the Disorderly Persons Law of the State (N.J.S. 2A:170-18) makes the mere possession of a lottery slip an offense, and it would be anomalous if we construed our regulation to permit such an offense on licensed premises.

Further, we have held in a similar situation involving the Irish hospital sweepstakes tickets that the possession of such tickets and participation rights constitutes a violation of our regulation. Re Sports Bar & Grill, Inc., Bulletin 1124, Item 2.

After carefully considering and evaluating all of the evidence adduced herein, and the legal principles applicable thereto, I conclude that the Division has proved its case by clear and convincing testimony and by a fair preponderance of the credible evidence. I therefore recommend that the licensee be found guilty of the charges.

The licensee has no prior adjudicated record of suspension of license. I further recommend that the license be suspended for sixty days. Re Lake Hiawatha Inn, Inc., Bulletin 1601, Item 2.

#### Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 2nd day of February, 1967,

ORDERED that Plenary Retail Consumption License C-31, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Linden Hotel, Inc., t/a Linwood Inn, for premises 15 So. Wood Avenue, Linden, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Thursday, February 9, 1967, and terminating at 2 a.m. Monday, April 10, 1967.

JOSEPH P. LORDI,  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Frank Trivigno, Jr. & Carlo Spagnola )  
t/a Richmond Beer Garden )  
301-303 Richmond Street )  
Plainfield, N. J., )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Common Council of the City of Plainfield. )

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Abrams, Kestenbaum, Hendricks & Reina, Esqs., by Norman J. Abrams, Esq., Attorneys for Licensees  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to charges (1) and (2) alleging that on November 29, December 3, 8, 10 and 17, 1966 they permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensees have a previous record of suspension of license by the municipal issuing authority for one day effective October 22, 1962 for sale to a minor.

The prior record of suspension of license for dissimilar violation within the past five years considered, the license will be suspended for sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days. Re Beckert, Bulletin 1697, Item 3.

Accordingly, it is, on this 7th day of February, 1967,

ORDERED that Plenary Retail Consumption License C-7, issued by the Common Council of the City of Plainfield to Frank Trivigno, Jr. and Carlo Spagnola, t/a Richmond Beer Garden, for premises 301-303 Richmond Street, Plainfield, be and the same is hereby suspended for sixty (60) days, commencing at 8 a.m. Monday, February 13, 1967 and terminating at 8 a.m. Friday, April 14, 1967.

JOSEPH P. LORDI,  
DIRECTOR

5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1966 TO DECEMBER 31, 1966 AS REPORTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19 (INCLUDING 57 ISSUED BY THE DIRECTOR PURSUANT TO R.S. 33:1-20)

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club	Limited Retail Distribution		Seasonal Retail Consumption		Licenses Expired	Licenses Surrendered/Revoked	Number Licenses in Effect	Total Fees Paid	
	No. Issued	Fees Paid	No. Issued	Fees Paid		No. Issued	Fees Paid	No. Issued	Fees Paid					No. Issued
Atlantic	485	\$ 207,610.00	74	\$ 27,775.00	31	\$ 2,745.00						590	\$ 238,130.00	
Bergen	817	355,601.40	300	92,754.00	156	14,227.28	48	\$ 2,269.50	5	\$ 1,398.75	5	1321	466,250.93	
Burlington	197	91,602.79	43	15,382.52	52	7,200.00	1	50.00				293	114,235.31	
Camden	458	226,398.49	86	37,185.00	82	8,110.00			1	450.00	1	626	272,143.49	
Cape May	138	78,050.00	13	4,700.00	18	2,220.00						169	84,970.00	
Cumberland	80	40,995.89	15	4,200.00	32	4,250.00						127	49,445.89	
Essex	1277	730,181.37	346	210,600.00	95	12,925.00	24	1,200.00	2	1,500.00	1	1742	956,406.37	
Gloucester	109	39,710.00	15	3,870.00	24	2,195.00						148	45,775.00	
Hudson	1446	654,606.58	297	121,900.00	78	9,272.16	60	2,550.00			1	1880	788,328.74	
Hunterdon	78	29,120.00	14	8,280.00	14	1,500.00						106	38,900.00	
Mercer	421	263,880.00	50	22,562.00	61	9,150.00						532	295,592.00	
Middlesex	636	322,696.17	85	30,479.39	128	10,854.17	4	200.00				853	364,229.73	
Monmouth	543	288,635.00	123	44,130.00	63	6,879.74	10	492.00	20	10,882.63	20	739	351,019.37	
Morris	358	148,108.48	104	43,149.58	71	6,682.50	14	700.00	4	1,500.00	4	547	200,140.56	
Ocean	196	110,446.32	50	22,147.00	44	5,072.16						290	137,665.48	
Passaic	833	347,309.00	170	52,800.00	50	5,875.00	6	300.00				1059	406,234.00	
Salem	51	20,160.00	8	1,640.00	19	1,625.00						78	23,425.00	
Somerset	190	89,535.00	41	12,875.00	37	4,425.00						268	106,835.00	
Sussex	165	47,165.00	21	4,310.00	13	740.00	1	50.00	1	225.00	1	200	52,490.00	
Union	544	315,255.94	144	74,392.00	89	9,497.00	27	1,336.00				804	400,480.94	
Warren	147	44,547.53	21	5,300.00	30	3,180.00			2	338.40	2	198	53,365.93	
Totals	9169	\$ 4,451,614.96	2020	\$840,431.49	1187	\$128,625.01	195	\$ 9,147.50	35	\$16,294.73	34	2*	12570	\$5,446,113.74

\*Essex - 1 C revoked  
Hudson - 1 C revoked

Joseph P. Lordi  
Director

March 2, 1967

6.

ACTIVITY REPORT FOR FEBRUARY 1967

<b>ARRESTS:</b>		
Total number of persons arrested - - - - -		20
Licensees and employees - - - - -	12	
Bootleggers - - - - -	8	
<b>SEIZURES:</b>		
Still - 50 gallons or under - - - - -		2
Alcohol - gallons - - - - -		1
Mash - gallons - - - - -		250
Distilled alcoholic beverages - gallons - - - - -		3.50
Wine - gallons - - - - -		1.32
Brewed malt alcoholic beverages - gallons - - - - -		47.42
<b>RETAIL LICENSEES:</b>		
Premises inspected - - - - -		624
Premises where alcoholic beverages were gauged - - - - -		492
Bottles gauged - - - - -		8,349
Premises where violations were found - - - - -		59
Violations found - - - - -		78
Unqualified employees - - - - -	28	Other mercantile business - - - - - 4
Application copy not available - - - - -	15	Other violations - - - - - 25
Reg. #38 sign not posted - - - - -	6	
<b>STATE LICENSEES:</b>		
Premises inspected - - - - -		20
License applications investigated - - - - -		1
<b>COMPLAINTS:</b>		
Complaints assigned for investigation - - - - -		286
Investigations completed - - - - -		324
Investigations pending - - - - -		235
<b>LABORATORY:</b>		
Analyses made - - - - -		91
Refills from licensed premises - bottles - - - - -		52
Bottles from unlicensed premises - - - - -		14
<b>IDENTIFICATION:</b>		
Criminal fingerprint identifications made - - - - -		7
Persons fingerprinted for non-criminal purposes - - - - -		285
Identification contacts made with other enforcement agencies - - - - -		185
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities - - - - -		7
Violations involved - - - - -		7
Sales to minors - - - - -	4	
Sales during prohibited hours - - - - -	3	
Cases instituted at Division - - - - -		9
Violations involved - - - - -		13
Possessing liquor not truly labeled - - - - -	5	Failure to file notice of change in license application - - - - - 1
Fraud and front - - - - -	1	Unauthorized transportation - - - - - 1
Hindering investigation - - - - -	1	Sales to minors - - - - - 1
Sale below filed price - - - - -	1	Permitting immoral act. on premises - - - - - 1
Unqualified employee - - - - -	1	
Cases brought by municipalities on own initiative and reported to Division - - - - -		11
Violations involved - - - - -		17
Sale to minors - - - - -	8	Permitting persons of ill repute on premises - - - - - 1
Unqualified employees - - - - -	2	Permitting premises to be used in furtherance of illegal activity - - - - - 1
Conducting business as a nuisance - - - - -	2	Permitting lottery activity on prem. - - - - - 1
Permitting loitering by minors unaccomp. by adults (local reg.) - - - - -	1	
Permitting dance on prem. w/o permit (local reg.) - - - - -	1	
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held - - - - -		34
Appeals - - - - -	5	Eligibility - - - - - 4
Disciplinary proceedings - - - - -	23	Tax revocations - - - - - 2
<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued - - - - -		948
Solicitors' permits - - - - -	33	Social affair permits - - - - - 309
Employment permits - - - - -	274	Miscellaneous permits - - - - - 129
Disposal permits - - - - -	19	Transit insignia - - - - - 158
Wine permits - - - - -	3	Transit certificates - - - - - 23
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>		
Licenses issued - - - - -	51	
Enforcement files established - - - - -	1	

JOSEPH P. LORDI  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: March 6, 1967

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - FOUL LANGUAGE -  
 LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
 Proceedings against )

Joseph Sandor Bar, Inc. )  
 t/a Joe's Bar )  
 74 Pershing Avenue )  
 Carteret, New Jersey )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consumption )  
 License C-43, issued by the Mayor and )  
 Council of the Borough of Carteret )

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 John M. Kolibas, Esq., Attorney for Licensee.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on December 23, 1966, it (1) sold three quart containers of beer to a minor, age 17, in violation of Rule 1 of State Regulation No. 20, and (2) permitted foul and filthy language to be directed to two investigators of the Division of Alcoholic Beverage Control then conducting assigned investigation, by Joseph Sandor, president and 45% stockholder of the licensee corporation, in violation of Rule 5 of State Regulation No. 20.

Although the corporate licensee has no previous record of suspension of license, the license then held by Joseph Paul Sandor, president and 45% stockholder of the licensee corporation for the same premises, was suspended by the Director for ten days effective March 2, 1959, for permitting wagering on pool games. Re Sandor, Bulletin 1270, Item 8.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended on the first charge for twenty days (Re Hedy's Bar, Inc., Bulletin 1696, Item 8) and on the second charge for twenty-five days (Re Bruno Hardcastle, Inc., Bulletin 1694, Item 8), or a total of forty-five days, with remission of five days for the plea entered, leaving a net suspension of forty days.

Accordingly, it is, on this 8th day of February, 1967,

ORDERED that Plenary Retail Consumption License C-43, issued by the Mayor and Council of the Borough of Carteret to Joseph Sandor Bar, Inc., t/a Joe's Bar, for premises 74 Pershing Avenue, Carteret, be and the same is hereby suspended for forty (40) days, commencing at 2:00 a.m. Wednesday, February 15, 1967, and terminating at 2:00 a.m. Monday, March 27, 1967.

JOSEPH P. LORDI  
 DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

JOHN CORTAZZO AND JOHN YURCHUK )  
t/a Klub Kim-K )  
300 Hamilton Blvd. )  
South Plainfield, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Mayor and Council of the Borough of South Plainfield. )

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Harold P. Jahnke, Esq., Attorney for Licensees.  
Michael J. Mehr, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensees pleaded not guilty to the following charge:

"On Friday night, September 23 and early Saturday morning, September 24, 1966, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages directly or indirectly, to persons under the age of twenty-one (21) years, viz., Thomas ---, age 20, and John ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

At the hearing held herein, the Division called as witnesses John ---, Thomas --- and two ABC agents hereinafter referred to as Agents D and Di.

John --- (20 years of age) testified that he was born on February 14, 1946. He further stated that on the evening of September 23, 1966, he and Thomas visited the licensees' premises where he ordered and was served by one of the licensees, John Cortazzo, two bottles of Schaefer beer, one for himself and the other for Thomas. Thereafter, John stated, he ordered a glass of Schaefer draft beer which he consumed. Upon returning from the men's room, he observed a brown paper package in which were containers of beer on the bar next to Thomas. When he and Thomas were leaving the premises, they were stopped by two ABC agents.

At the hearing herein, John identified Cortazzo as the man who made the service of the beer on the evening in question and also identified Agents D and Di as the persons who stopped him and Thomas as they were leaving the premises.

Thomas --- (20 years of age) corroborated John's testimony as to what occurred on the licensees' premises on the evening of September 23, 1966. When questioned whether he was asked to produce evidence of his age, Thomas denied ever being asked for any identification whatsoever.

Agent D testified that he and Agent Di were seated at the bar on the evening in question and he heard John order two bottles of Schaefer beer from Cortazzo, one of the licensees; that service of the beer was made and John and Thomas each consumed the contents of his respective bottle. Agent D further stated that he heard John order and saw served to him a glass of Schaefer draft beer and also saw Thomas being served three "clear plastic containers" of Schaefer draft beer. Just as John and Thomas left the establishment, Agent D said that he and his fellow agent stopped them and questioned them concerning the incidents which happened on the licensed premises. Thereafter, the four of them returned to the licensed premises and, when Cortazzo was questioned concerning the sale and service of beer to the two youths, Cortazzo admitted making service of the alcoholic beverages.

John Cortazzo testified that he recalled John and Thomas in the licensed premises on the date alleged and serving "two Schaefer bottles of beer and three quart containers." He also said he recognized Thomas because on an occasion "about two and a half or three weeks previous" Thomas was served a bottle of beer after he had shown him (Cortazzo) a draft card showing the date of birth to be in "1943".

The question to be resolved from the evidence herein is whether the minors were sold and served alcoholic beverages without being required to make a written representation of their ages, as directed in the statute pertaining thereto. R.S. 33:1-77 contains the following proviso:

"...that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually twenty-one (21) years of age or over."  
(Emphasis ours)

The defense outlined in the aforesaid statute has been ruled to be effective in disciplinary proceedings as well as in criminal proceedings. Cf. Caruso v. Jersey City, Bulletin 694, Item 1.

To constitute a valid defense to such prohibited sale, not some but all of the factual elements enumerated in the enactment are necessary. See Re Butera, Bulletin 606, Item 4; Re Cedar Bar of Bergen County, Inc., Bulletin 942, Item 5; Re Wedemeyer, Bulletin 1050, Item 8; Eighty-Nine Clinton, Inc. v. Atlantic Highlands, Bulletin 1591, Item 2; Sportsman 300 v. Bd. of Com'rs of Nutley, 42 N.J. Super. 488 (App. Div. 1956), reprinted in Bulletin 1143, Item 1.

Even were I disposed to accept Cortazzo's testimony (which I do not) that several weeks prior to the date charged herein, Thomas displayed a draft card showing an incorrect age, the display in itself does not satisfy the statutory requirements constituting a defense to alleged sale of alcoholic beverages to a minor. Hence, I conclude that the Division has established the truth of the charge preferred herein by a fair preponderance of the evidence and I recommend that the licensees be found guilty thereof.

Licensees have no prior adjudicated record. It is further recommended that an order be entered suspending the license for ten days. Re W Realty, Incorporated, Bulletin 1686, Item 8.

Conclusions and Order

No exceptions to the Hearer's report were filed within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 14th day of February 1967,

ORDERED that Plenary Retail Consumption License C-12, issued by the Mayor and Council of the Borough of South Plainfield to John Cortazzo and John Yurchuk, t/a Klub Kim-K, for premises 300 Hamilton Blvd., South Plainfield, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, February 21, 1967, and terminating at 2 a.m. Friday, March 3, 1967.

JOSEPH P. LORDI  
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

VINDAN, INC. )  
t/a C & C LIQUORS )  
459 McBride Avenue )  
Paterson, New Jersey )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-55, issued by the Board of Alcoholic Beverage Control for the City of Paterson. )

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Licensee, by Vincent N. Carrano, President, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 30, 1966, it sold six quart bottles of whiskey below filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Cattani Wines & Liquors, Inc., Bulletin 1693, Item 10.

Accordingly, it is, on this 14th day of February 1967,

ORDERED that Plenary Retail Distribution License D-55, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Vindan, Inc., t/a C & C Liquors, for premises 459 McBride Avenue, Paterson, be and the same is hereby suspended for five (5) days, commencing at 9 a.m. Monday, February 20, 1967, and terminating at 9 a.m. Saturday, February 25, 1967.

JOSEPH P. LORDI  
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - SALE DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

AUGUSTUS HUTCHINS  
t/a HUTCH'S BAR & GRILL  
39 Carroll Street  
Paterson, New Jersey

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-117, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

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Licensee, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

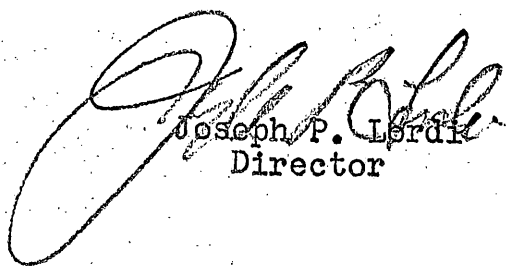
Licensee pleads non vult to charges alleging that on Sunday, December 11, and Sunday, December 18, 1966, before 1:00 p.m., he (1) sold on each occasion a pint bottle of whiskey for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) and (3) made such sales during hours prohibited by municipal ordinance.

Licensee has a previous record of suspension of license by the Commissioner for ten days effective March 8, 1948, for false statement in the license application with respect to possession of the licensed premises. Re Hutchins, Bulletin 796, Item 6.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Moore, Bulletin 1659, Item 4.

Accordingly, it is, on this 7th day of February, 1967,

ORDERED that Plenary Retail Consumption License C-117, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Augustus Hutchins, t/a Hutch's Bar & Grill, for premises 39 Carroll Street, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Thursday, February 9, 1967, and terminating at 3:00 a.m. Friday, February 24, 1967.

  
Joseph P. Lerdik  
Director